IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 25016 of 2004

Between:

1 B. Sambamurthy, s/o Late B. Bheemaiah, r/o Flat No. 101, Kaveri Block, Divyasakthi House, Srinagar Colony, Hyderabad.
2 B. Ravindra Babu, s/o Late B. Bheemaiah, R/o House No.10-3-375 (50/2RT), Vijayanagar Colony, Hyderabad.

..... PETITIONERS

AND

1 The Municipal Corporation of Hyderabad, Rep. by its Commissioner, Tank Bund, Hyderabad.
2 The Additional Commissioner (West), Municipal Corporation of Hyderabad, Khairatabad, Hyderabad.
3 The Deputy Commissioner, Municipal Corporation of Hyderabad, Circle No.4, Khairatabad, Hyderabad.
4 B. Nandakumar, S/o Late Bheemaiah, R/o H.No. 10-3-375 (50/2RT), Vijayanagar Colony, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction preferably writ of mandamus, declaring the notice issued by the 1st respondent (MCH) dated
20-12-2004 u/s 452 of HMC Act is illegal, arbitrary, contrary to directions issued in W.P. No.21738/04, dated 29-11-2004 and violative of principles of natural justice and consequently direct the respondents 1 to 3 and their staff not to demolish any structures in pursuance of the impugned notice dated 20-12-2004.

For the Petitioner: MR.KOWTURU VINAYA KUMAR, Advocate

For the Respondent Nos.1 to 3: MR.RAMA RAO GANTA, SC for MCH

For the Respondent No.4: --

The Court at the stage of admission made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for Municipal Corporation of Hyderabad and with their consent the writ petition itself is disposed of at the stage of admission.

The petitioners 1 and 2 and respondent No.4 claim to be brothers and entered into a settlement for development of the house owned by them in Qtr. bearing No.50/2RT, House No.10-3-375, situated at Vijayanagar Colony, Hyderabad and entrusted the construction work to a private construction agency. The petitioners state that respondent No.4 filed W.P. No.21738 of 2004, alleging certain irregularities in the construction and complaining the inaction on the part of officials of the Municipal Corporation of Hyderabad in taking action thereon, wherein this Court by order dated 29-11-2004 directed the officials of the Municipal Corporation of Hyderabad to consider the representation stated to have been filed by respondent No.4 herein, dated 31-1-2004 and pass appropriate orders thereon in accordance with law. The grievance of the petitioners is that contrary to the direction in W.P. No.21738 of 2004, the first respondent herein issued the impugned show-cause notice dated 20-12-2004 under Section 452 of the Hyderabad Municipal Corporation Act directing them to submit their explanation in respect of the violations in the construction. Questioning the impugned notice, the petitioners filed the present writ petition.

Having regard to the facts and circumstances of the case, I deem it appropriate to direct the petitioners to submit proper explanation within three weeks from today to the impugned show-cause notice, dated 20-12-2004 issued by the first respondent, and on such filing, the first respondent shall consider the explanation and pass appropriate orders thereon in accordance with law, and shall proceed further in the matter as per the decision taken thereon. Till such time, the parties shall maintain status quo existing as on today.

With the above directions, the writ petition is disposed of at the stage of admission.

No costs.

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N.V. RAMANA, J

Date: 31-12-2004

Note:

Issue operative portion by wire at party's cost.

(Bo)

Svv

To

1 The Commissioner, Municipal Corporation of Hyderabad, ,
Tank Bund, Hyderabad.
2 The Additional Commissioner (West), Municipal Corporation of
Hyderabad, Khairatabad, Hyderabad.
3 The Deputy Commissioner, Municipal Corporation of Hyderabad,
Circle No.4, Khairatabad, Hyderabad.

4 Two CD copies.